

OFFICIAL COPY

Fresno, California March 29, 2005

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Jerry Duncan	Acting Council President
	Henry Perea	Councilmember
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Mike Dages	Council President

Andy Souza, City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

President Dages gave the invocation and led the Pledge of Allegiance.

PROCLAMATION OF FRANCISCO VARGAS DAY - COUNCILMEMBER STERLING

PROCLAMATION OF NATIONAL AGRICULTURE DAY - MAYOR AUTRY

PROCLAMATION OF DENNIS DELIDDO DAY - PRESIDENT DAGES

PROCLAMATION OF TERANCE FRAZIER AND STEVE HOSEY (MID STATE BOWL) DAY - COUNCILMEMBER BOYAJIAN

The above proclamations were read and presented.

APPROVE MINUTES OF MARCH 15, 2005:

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of March 15, 2005, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

COMMENDATION TO MICHIGAN STATE FOR BEING IN THE FINAL FOUR - COUNCILMEMBER DUNCAN, A PROUD MICHIGAN STATE ALUMNI ON BEHALF OF ALL MICHIGAN STATE SPARTANS IN FRESNO

Commendation made.

(1) CONGRATULATIONS TO CHIEF DYER ON BEING NAMED VICE PRESIDENT OF THE CALIFORNIA POLICE CHIEF'S ASSOCIATION, AND (2) COMMENDATION TO THE CENTRAL POLICING DISTRICT AND CAPT. BRIDGES ON THE SUCCESSFUL CALAVERAS STREET BLOCK PARTY NEAR DICKEY PLAYGROUND - COUNCILMEMBER STERLING

Extended.

(1) PROCLAMATION PRESENTED TO DUNCAN POLYTECHNICAL HIGH SCHOOL IN HONOR OF THE SCHOOL BEING RECOGNIZED AS ONE OF NINE BREAK-THROUGH HIGH SCHOOLS NATIONWIDE, (2) INVITATION TO ATTEND CAMPUS BAPTIST CHURCH'S 35TH ANNIVERSARY CELEBRATION EVENT ON SUNDAY, APRIL 3RD, AND (3) KOCHI, JAPAN, 40TH SISTER CITY EVENT/CELEBRATION IN JAPAN - COUNCILMEMBER WESTERLUND

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Councilmember Westerlund advised the proclamation was presented at a school rally and stated it was a terrific event; invited all to attend Campus Baptist Church's anniversary event; and advised he represented the City of Fresno at the Sister City event in Kochi and stated it was a huge celebration and was time well spent, thanked Judy Brown, Fresno's Sister City Committee Liaison, for all her efforts, and presented a Japanese tapestry that was given to the city to City Manager Souza.

INVITATION TO ALL TO ATTEND THE 2ND ANNUAL TEXAS HOLD 'EM CHARITY POKER TOURNAMENT ON APRIL 23RD AT CLUB ONE CASINO - PRESIDENT DAGES

President Dages spoke to last year's successful event and encouraged all to attend.

APPROVE AGENDA:

(11:00 A.M. #2) CLOSED SESSION OF THE REDEVELOPMENT AGENCY:

("E") PUBLIC EMPLOYEE APPOINTMENT/EMPLOYMENT - TITLE: APPOINTMENT OF EXECUTIVE DIRECTOR - COUNCILMEMBER CALHOUN

Councilmember Boyajian advised the end of negotiations was near and requested the matter be laid over one week.

(9:45 A.M.) DIRECTION TO STAFF REGARDING "IN-LIEU" CHARGES - PRESIDENT DAGES

- 1. DIRECT CITY ATTORNEY TO NOT FILE AN APPEAL IN THE CASE PERTAINING TO HOWARD JARVIS TAXPAYERS ASSOCIATION V. THE CITY OF FRESNO**
- 2. DIRECT STAFF TO REFUND UTILITY IN-LIEU FEES IN AN AMOUNT EQUAL TO ONE YEAR'S PAYMENT THROUGH A CREDIT ON CUSTOMER'S BI-MONTHLY BILLS**

Councilmember Duncan stated he respected the matter being scheduled but questioned the appropriateness of it being an open session item. City Attorney Montoy advised this matter concerned pending litigation and it was also scheduled for closed session this date, relative to #1 recommended Council hold the closed session before convening in open session, and relative to #2 stated it was premature and explained and recommended it be tabled until after the closed session or until next week.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the 9:45 a.m. item tabled until after closed session, by the following vote:

Ayes :	Boyajian, Calhoun Duncan, Sterling, Westerlund
Noes :	Perea, Dages
Absent :	None

City Manager Souza requested the closed session item (11:00 a.m. #1-B) be held at 2:00 p.m. as the Mayor wanted to attend but would not be able to at 11:00 a.m. By Council consensus the closed session item was set for 2:00 p.m. with the 9:45 a.m. item 9:45 a.m. scheduled after it.

(1-O) APPROVE A FIVE-YEAR EXTENSION OF THE LEASE AGREEMENT WITH COMPREHENSIVE YOUTH SERVICES (CYS), AND DIRECT STAFF TO WORK WITH THE CITY ATTORNEY'S OFFICE AND RETURN TO COUNCIL AS QUICKLY A POSSIBLE WITH AN IMPLEMENTATION PLAN TO LEGALLY SELL OR DONATE TO CYS THE CITY-OWNED PROPERTY USED BY CYS

City Clerk Klisch advised there had been a mix-up with transmittal of the report and staff was requesting the matter be removed from the agenda and advised it would be brought back next week.

(3-B) REPORT ON MARKETING PLAN AND PACKAGE FOR THE ROEDING BUSINESS PARK - COUNCILMEMBER WESTERLUND

Councilmember Westerlund advised he was working with Economic Development Director Burkhardt on the issue and progress was being made but additional information still needed to be gathered, and laid the matter over one week.

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On motion of Councilmember Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund
 Noes : Dages
 Absent : None

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ADOPT CONSENT CALENDAR:

Councilmember Calhoun removed Items **1-L** and **1-M** from the consent calendar for discussion at 9:30 a.m.

(1-A) APPROVE THE ADDITION OF TWO (2) PERMANENT POSITIONS TO THE FINANCE DEPARTMENT/TREASURY SECTION, FOR COLLECTING PAST DUE HOUSING LOANS AND CITYWIDE ACCOUNTS RECEIVABLE

1. RESOLUTION NO. 2005-95 - 67TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$80,000 TO FUND THE TWO POSITIONS FOR THE REMAINDER OF THE FISCAL YEAR

2. RESOLUTION NO. 2005-96 - 20TH AMENDMENT TO PAR 2004-210 ADDING THE TWO POSITIONS TO THE FINANCE DEPARTMENT FOR THE REMAINDER OF THE FISCAL YEAR

(1-B) APPROVE THE RECIPROCAL AGREEMENT WITH ROBERT AND ROSA MINAS, ET AL., FOR THE CONSTRUCTION AND MAINTENANCE OF THE LINDEN AVENUE PARKING LOT IN THE TOWER DISTRICT, AND AUTHORIZE THE PUBLIC WORKS AND PLANNING & DEVELOPMENT DIRECTORS OR DESIGNEES TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

(1-C) RESOLUTION NO. 2005-97 - DEDICATING CERTAIN CITY-OWNED PROPERTY, LOCATED ON MARKS AVENUE FROM BELMONT TO APPROXIMATELY 600' SOUTH OF WHITESBRIDGE AVENUE, FOR PUBLIC STREET PURPOSES (IN CONJUNCTION WITH THE DEVELOPMENT OF THE ROEDING INDUSTRIAL PARK)

(1-D) APPROVE THE ACQUISITION OF STREET EASEMENTS FOR THE ELM AVENUE IMPROVEMENTS PROJECT FROM APN 328-150-10 OWNED BY ENRIQUE R. LOPEZ AND CARLOS D. LOPEZ, AND APN 479-270-21 OWNED BY SEQUOIA COMMUNITY HEALTH FOUNDATION, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE AGREEMENTS FOR PURCHASE AND SALE OF REAL PROPERTY, OTHER RELATED DOCUMENTS AS NECESSARY, AND ACCEPT THE DEEDS OF EASEMENT FOR PUBLIC STREET PURPOSES

(1-E) AUTHORIZE THE ACCEPTANCE OF FISCAL YEAR 2005 GRANT FUNDS FROM THE STATE OF CALIFORNIA OFFICE OF TRAFFIC SAFETY TO SUPPORT THE POLICE DEPARTMENT'S CALIFORNIA SEAT BELT COMPLIANCE CAMPAIGN FROM APRIL TO JUNE 2005

1. RESOLUTION NO. 2005-98 - 68TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$89,400 FOR THE POLICE DEPARTMENT'S SEAT BELT CAMPAIGN

(1-F) RESOLUTION NO. 2005-99 - DECLARING AN URGENT NECESSITY FOR THE PRESERVATION OF LIFE, HEALTH OR PROPERTY, WAIVING ADVERTISED COMPETITIVE BIDDING REQUIREMENTS, AND AUTHORIZING THE PUBIC WORKS DIRECTOR TO CONTRACT FOR THE REPLACEMENT OF A PORTION OF THE 14-INCH CHURCH AVENUE TRANSMISSION GRID WATER MAIN LOCATED IN E. CHURCH BETWEEN S. WILLOW AND S. LAUREEN AVENUES

(1-G) RESOLUTION NO. 2005-100 - AUTHORIZING ACCEPTANCE OF THE FY 2005 WEED AND SEED GRANT PROGRAM PASS-THROUGH FUNDING OF UP TO \$87,391 FROM THE UNITED WAY OF FRESNO COUNTY AND EXECUTION OF PROGRAM DOCUMENTS

1. RESOLUTION NO. 2005-101 - 66TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$43,800 FOR THE UNITED WAY SOUTHWEST DISTRICT WEED AND SEED PROGRAM

Councilmember Calhoun thanked Police Capt. Gardner for providing information on the item.

(1-H) RESOLUTION NO. 2005-102 - 62ND AMENDMENT TO AAR 2004-209 APPROPRIATING \$1,141,900 IN THE POLICE DEPARTMENT'S FY 2005 BUDGET FOR BOOKING FEE REIMBURSEMENT FROM THE STATE OF CALIFORNIA

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(1-I) AUTHORIZE AN ADDITIONAL THREE MONTH EXTENSION TO THE INTERIM CONTRACT WITH WEST COAST ARBORIST, INC., OF ANAHEIM, CA, IN THE ESTIMATED AMOUNT OF \$349,400 FOR MUNICIPAL STREET TREE SERVICES THROUGH JUNE 30, 2005, UNTIL THE CURRENT REQUEST FOR PROPOSAL (RFP) PROCESS IS COMPLETED AND A CONTRACT AWARD IS MADE

Councilmember Calhoun thanked Pubic Works/Streets Director Dilley and General Services Director Nerland for providing information.

(1-J) AWARD A ONE YEAR REQUIREMENTS CONTRACT WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS TO SELMA ENTERPRISE OF SELMA, CA, IN THE AMOUNT OF \$86,175.68 FOR FRESNO AREA EXPRESS (FAX) SCHEDULE GUIDES

(1-K) AWARD A CONTRACT TO AMERICAN PAVING CO. OF FRESNO IN THE AMOUNT OF \$112,429 FOR MACMICHAEL TRAIL IMPROVEMENTS AT WOODWARD PARK

(1-N) RESOLUTION NO. 2005-103 - 21ST AMENDMENT TO PAR 2004-210 ADDING EIGHT (8) FIRE PREVENTION INSPECTOR I/II POSITIONS TO THE FIRE DEPARTMENT BEGINNING MARCH 29, 2005 THROUGH JUNE 30, 2005

(1-P) RESOLUTION NO. 2005-104 - 70TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$50,000 IN GRANT FUNDS SECURED BY THE FRESNO UNIFIED SCHOOL DISTRICT FROM THE NATIONAL SCIENCE FOUNDATION TO CONDUCT COMMUNITY SCIENCE NIGHTS OPERATED BY PARKS & RECREATION

(1-Q) RESOLUTION NO. 2005-105 - 22ND AMENDMENT TO PAR 2004-210 ADDING TWO (2) WATER SYSTEM OPERATOR II POSITIONS TO THE PUBLIC UTILITIES DEPARTMENT FOR MAINTENANCE OF THE SURFACE WATER TREATMENT FACILITY, AND SOURCE WATER PROTECTION OPERATIONS, WELL ABANDONMENT AND RESTORATION PROJECTS

(1-R) RESOLUTION NO. 2005-106 - AUTHORIZING A JOINT AGREEMENT/APPLICATION BETWEEN THE CITY AND THE COUNTY OF FRESNO FOR AND ACCEPTANCE OF FY 2005 BYRNE JUSTICE ASSISTANCE GRANT (JAG) FOR \$556,910 AND ALLOCATION OF FUNDING THROUGH THE INTER-LOCAL AGREEMENT, AND EXECUTION OF ANY RELATED DOCUMENTS

(1-S) BILL NO. B-23 - ORDINANCE NO. 2005-25 - ADOPTING THE 2005 WEED ABATEMENT PROGRAM

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes	:	None
Absent	:	None

(9:00 A.M.) PUBLIC COMMENT - UNSCHEDULED COMMUNICATION:

Upon call, no one wished to be heard.

(9:15 A.M.) APPROVE THE NAMING OF TWO PARKS AND RECREATION FACILITIES

1. APPROVE NAMING THE FIELD AT NEILSEN PARK AS "ANDREW MITCHELL FIELD"

2. APPROVE NAMING THE NEW BELMONT AND SUNNYSIDE PARK IN HONOR OF AL RADKA - PRESIDENT DAGES

1. APPROVE NAMING THE FIELD AT NEILSEN PARK AS "ANDREW MITCHELL FIELD"

Councilmember Sterling stated this was a wonderful opportunity to recognize individuals who live in the community, thanked Parks and Recreation staff and the Mayor and Chief Dyer for following through on their commitment to recognize the tragedy that took

place on December 26, 2002, in which Andrew was shot in a drive-by leaving him paralyzed, stated although he is in a wheelchair his spirit has not been daunted and he always has a smile on his face, spoke to the curb-cut and house-retrofitting projects that took place to help Andrew, and again

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thanked staff and made a motion to name the fields at Neilsen Park after Andrew **(2 - 0)**. The motion was seconded and acted upon after brief discussion.

Assistant P & R Director Haynes responded to questions of Councilmember Boyajian relative to where Neilsen Park was located and whether just the fields were being named. City Attorney Montoy advised, with approval of #1 and #2, staff would return with a formal resolution containing details and the significance of the namings so it would be on record. Councilmember Calhoun stated he wanted to make sure this naming would in no way detract from Mr. Neilsen whom the park was named after or "water it down", and questioned if any precedence was being set here, how the naming/signage would be done, and if costs were associated and who would pay, with Mr. Haynes and P & R Director Cooper responding.

On motion of Councilmember Sterling, seconded by Councilmember Westerlund, duly carried, **RESOLVED**, the fields at Neilsen Park to be named "Andrew Mitchell Field", and the city attorney to return with a formal resolution on the naming in one week, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes	:	None
Absent	:	None

2. APPROVE NAMING THE NEW PARK AT BELMONT AND SUNNYSIDE IN HONOR OF AL RADKA - PRESIDENT DAGES

President Dages stated Mr. Radka was considered "Mr. Fresno" by a lot of people as he constantly promoted Fresno, concurred with a Fresno Bee article that Mr. Radka was an all-American, a great tribute to Fresno and a walking commercial, stated the Fresno Bee was also right to suggest in an editorial that a park be named after him, and spoke to, and sang, the commercials Mr. Radka made famous and made a motion to approve the naming, including a formal resolution being brought back in one week. The motion was seconded and acted upon after brief discussion.

William Milton, Fresno, spoke to his memories of Mr. Radka and in support of the naming.

Mr. Haynes and City Manager Souza responded briefly to questions of Councilmember Boyajian and/or clarified issues relative to the normal process for naming parks and if there had been any preconceived names.

On motion of President Dages, seconded by Councilmember Duncan, duly carried, **RESOLVED**, the naming of the new park at Belmont and Sunnyside Avenues to be named in honor of Al Radka, and the city attorney to return with a formal resolution on the naming in one week, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes	:	None
Absent	:	None

(9:30 A.M.) CONTESTED CONSENT CALENDAR:

(1-L) RESOLUTION NO. 2005-106 - APPROVING THE REALLOCATION OF \$571,300 IN PARKS CAPITAL FUNDS TO COMPLETE FUNDING NEEDED FOR THE CONTRACT TO PROVIDE FACILITIES UPGRADES AT NEILSEN PARK

1. AWARD A CONTRACT IN THE AMOUNT OF \$918,720.50 TO AMERICAN PAVING CO., OF FRESNO FOR UPGRADES TO THE YOUTH BASEBALL COMPLEX AT NEILSEN PARK

Councilmember Calhoun stated his concerns were the contract price was 12% above the engineer's estimate and funds were being reallocated but the staff report did not indicate where they were being reallocated from, and presented questions and comments at length

relative to what the reallocated funds were originally earmarked for, if the funds were being taken away from another project, if the pre-fab concept was less costly than standard restrooms, reason for there being a tight time frame, if rushing the project would drive up costs, if it was worthwhile or to the city's advantage to complete the project this year versus putting it off until next year, the operating budget and identified funds, all districts having dream projects and needs and concern with having to wait for funding, this matter being premature and there being a need for additional information on the park and for parks staff to make a case for these funds, and need for a one week delay to receive additional information from staff. An unidentified staff member and Assistant Parks & Recreation Director Haynes responded throughout.

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A motion of Councilmember Calhoun, seconded by Councilmember Boyajian, to table the matter and direct staff to report back in one week with additional information on procedure, criteria and funding failed, by the following vote:

Ayes : Boyajian, Calhoun
 Noes : Duncan, Perea, Sterling, Westerlund, Dages
 Absent : None

A motion and second was made to approve staff's recommendation. Councilmember Sterling spoke in support of the motion stating inadequate restroom facilities have been a huge problem in her district and emphasized this was a needed amenity and a one year delay would be a great loss and elaborated. Councilmember Boyajian clarified he supported the park but felt Councilmember Calhoun had a viable concern stating he only wanted information on procedure, and spoke to the issue of district priorities and questioned why Council was afraid of getting the information and if staff could still submit it to Council stating he wanted to see it, with City Manager Souza responding affirmatively. Councilmember Calhoun stated this was the train coming the down the track and the Mayor wanting to put money into the southwest; stressed for four years he has not had anything new in his district and he was very unhappy about that; stated he appreciated the Mayor's "tale of two cities" but he did not appreciate the fact that everything was going to the south; and emphasized there were seven districts, a number of parks have been opened in the southwest and southeast and he was tired and really irritated with the process and elaborated. Mr. Souza clarified this project had been identified in two budgets and was an amenity that was necessary, and stated resources were not being railroaded to the southwest and this was continued prioritization and was no surprise.

Gretchen Freedman, 3805 W. Buena Vista, FUSD psychologist employed at Edison High School, stated she has seen discrepancies within the district relative to services, resources and priorities and spoke in support of the motion.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2005-107 hereby adopted, and a contract in the amount of \$918,720.50 hereby awarded to American Paving Co. of Fresno for upgrades to the Youth Baseball complex at Neilsen Park, by the following vote:

Ayes : Boyajian, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : Calhoun
 Absent : None

(1-M) AWARD A CONTRACT TO M.J. MENEFEE CONSTRUCTION OF SELMA, CA, FOR THE HERNDON AVENUE WIDENING PROJECT, MARKS TO WEST AVENUES

Upon question of Councilmember Calhoun, Assistant Public Works Director Kirn stated on-going discussions with a Herndon/Van Ness property owner relative to a disagreement on access to Van Ness would still continue **(3 - 0)**. Councilmember Calhoun clarified to staff that by pulling this item off the consent calendar he was in no way sending a message to them.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, a contract hereby awarded to M.J. Menefee Construction in the amount of \$1,987,530 for the Herndon Avenue Widening Project from Marks to West Avenues, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

(10:00 A.M.) HEARING ON REZONE APPLICATION NO. R-04-58 AND ENVIRONMENTAL FINDINGS, FILED BY GRETCHEN FREEDMAN, PROPERTY LOCATED ON THE NORTHWEST CORNER OF N. WISHON AND E. PRINCETON AVENUES (2811 N. WISHON) IN COUNCIL DISTRICT 1

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-18/R-04-58/V-04-18

2. BILL NO. B-24 - ORDINANCE NO. 2005-26 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM C-5 TO R-2

President Dages announced the time had arrived to consider the issue and opened the hearing. Planner Pagaloutos gave an overview of the issue as contained in the staff report as submitted and recommended approval.

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Ben James, on behalf of the applicant, advised of the problems encountered over the years in developing the property and spoke to and in support of the proposed project.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Mr. James responded briefly to questions of Councilmember Boyajian relative to the project, if the building was going to be demolished, and if Ms. Freedman owned the property across the street.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, the City Council action of March 1, 2005, adopting a Mitigated Negative Declaration for E.A. No. A-04-18/R-04-58/V-04-18, dated January 19, 2005, hereby affirmed, and the above entitled Bill No. B-24 rezoning the subject property adopted as Ordinance No. 2005-26, by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

(3-A) REQUEST STAFF TO RESEARCH AND REPORT TO COUNCIL ON POSSIBLE VALUE OF ESTABLISHING IN-HOUSE MEDICAL CLINIC FOR CITY OF FRESNO EMPLOYEES - COUNCILMEMBER CALHOUN

Councilmember Calhoun reviewed the issue as contained in his report to Council including one company's experience in bringing its primary health care in-house, clarified this would be essentially primary care and spoke to the benefits and to the importance of preventive medicine, and stated the private sector was doing the right thing, reflected on his HMO-Kaiser, and questioned if this was worth looking into and requested input. City Manager Souza stated a vast majority of city employees were covered by the Health & Welfare Trust and stated he would request the city's H & W Trust representative, Transportation Director Rudd, to take this matter to the Trust so they could conduct an analysis with their medical experts and report back on the pros and cons in approximately 60 days. There was no further discussion.

(10:15 A.M.) HEARING ON THE CREATION OF RESIDENTIAL PARKING DISTRICT #9 LOCATED ON THE WEST SIDE OF N. GLENN BETWEEN MCKINLEY AND HOME AVENUES IN COUNCIL DISTRICT 1

1. RESOLUTION NO. 2005-108 - CREATING RESIDENTIAL PERMIT PARKING DISTRICT #9

President Dages announced the time had arrived to consider the issue and opened the hearing. Transportation Affairs Manager Madewell gave a brief overview of the issue as contained in the staff report as submitted and recommended approval.

Upon call, no one wished to be heard and President Dages closed the hearing.

Councilmember Boyajian spoke further to the unusualness of the neighborhood, the lack of driveways, and problems encountered by residents, read a letter into the record from property owners Laurence Marshall and Larry Norton of 1515 N. Glenn Avenue in support of the parking district, a copy of which is on file in the office of the city clerk, and stated this district was needed to protect the property owners, thanked staff, and made a motion to approve.

On motion of Councilmember Boyajian, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2005-108 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

(10:30 A.M.) HEARING TO DETERMINE WHETHER PUBLIC USE AND NECESSITY REQUIRE THE ACQUISITION OF A PERMANENT EASEMENT AND RIGHT-OF-WAY FROM PROPERTY AT THE INTERSECTION OF FIRST AND TULARE STREETS - APN 468-390-44S OWNED BY SSBI CANYON CREST CONDOMINIUMS, L.P.

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1. RESOLUTION NO. 2005-109 - DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF A PERMANENT EASEMENT AND RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT AT 3033 E. PLATT STREET (APN 468-390-44S OWNED BY SSBI CANYON CREST CONDOMINIUMS, L.P.) FOR PUBLIC PURPOSES FOR THE CONSTRUCTION OF THE FIRST AND TULARE STREET WIDENING PROJECT

President Dages announced the time had arrived to consider the issue and opened the hearing. Supervising Real Estate Agent Balch reviewed the issue and advised of the findings to be made, all as contained in the staff report as submitted, and recommended approval.

Upon call, no one wished to be heard and President Dages closed the hearing.

Councilmember Sterling spoke briefly to the need for the improvements stating this was a traffic safety issue and made a motion to approve staff's recommendation.

On motion of Councilmember Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution No. 2005-109 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

RECESS - 10:33 A.M. - 10:47 A.M.

(10:45 A.M.) HEARING ON REZONE APPLICATION NO. R-04-47 AND ENVIRONMENTAL FINDINGS, FILE BY RICHARD AND LYNDA GIBBS, PROPERTY LOCATED ON THE EAST SIDE OF N. EIGHTH STREET BETWEEN E. OLIVE AND E. TYLER AVENUES IN COUNCIL DISTRICT 7

1. CONSIDER AND ADOPT E.A. NO. R-04-47/S-04-192, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER EIR

2. BILL NO. B-25 - ORDINANCE NO. 2005-27 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-1 TO R-2

President Dages announced the time had arrived to consider the issue and opened the hearing. Councilmember Boyajian briefly left the dais at 10:48 a.m. Planner Bernal gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Upon call, no one wished to be heard and President Dages closed the hearing.

Councilmember Perea stated he had received no complaints from the neighborhood and made a motion to approve staff's recommendation.

On motion of Councilmember Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, the environmental finding of E.A. No. R-04-47/S-04-192, dated September 17, 2004, that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR hereby approved, and the above entitled Bill No. B-25 rezoning the subject property adopted as Ordinance No. 2005-27, by the following vote:

Ayes : Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : Boyajian

Councilmember Boyajian returned to the dais at 10:50 a.m.

(10:50 A.M.) HEARING ON REZONE APPLICATION NO. R-04-95 AND ENVIRONMENTAL FINDINGS, FILED BY DONALD W. SIMS, PROPERTY LOCATED ON THE SOUTHWEST CORNER OF E. WHITESBRIDGE AVENUE AND S. PLUMAS STREET IN COUNCIL DISTRICT 3

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1. CONSIDER AND ADOPT E.A. NO. R-04-95, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER EIR

2. BILL NO. B-26 - ORDINANCE NO. 2005-28 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM C-6 TO R-2-A

President Dages announced the time had arrived to consider the issue and opened the hearing. Planner Bernal gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Brian Garner, a property owner at Plumas and Amador Streets, spoke in support.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Councilmember Sterling stated this was an odd area and expressed her support stating this was going to be a great project and made a motion to approve staff's recommendation.

On motion of Councilmember Sterling, seconded by Councilmember Westerlund, duly carried, **RESOLVED**, the environmental finding of E.A. No. R-04-95 dated October 13, 2004, that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR hereby approved, and the above entitled Bill No. B-26 rezoning the subject property adopted as Ordinance No. 2005-28, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

(10:55 A.M.) HEARING ON REZONE APPLICATION NO. R-04-50 AND ENVIRONMENTAL FINDINGS, FILED BY PAUL H. STOMMEL, PROPERTY LOCATED ON THE WEST SIDE OF N. MARIPOSA STREET BETWEEN E. SHAW AND E. KEATS AVENUE (5067 N. MARIPOSA STREET) IN COUNCIL DISTRICT 4

1. CONSIDER AND ADOPT E.A. NO. R-04-50/S-04-88, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER EIR

2. BILL NO. B-27 - ORDINANCE NO. 2005-29 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM C-P TO C-P/cz TO REMOVE CERTAIN CONDITIONS OF ZONING AFFECTING THE SUBJECT SITE

President Dages announced the time had arrived to consider the issue and opened the hearing. Planner Salinas gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Upon call, no one wished to be heard and President Dages closed the hearing.

Councilmember Westerlund stated he had received no complaints or heard of any problems and made a motion to approve staff's recommendation.

On motion of Councilmember Westerlund, seconded by Councilmember Perea, duly carried, **RESOLVED**, the environmental

finding of E.A. No. R-04-50/S-04-88, dated December 29, 2004, that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR hereby approved, and the above entitled Bill No. B-27 rezoning the subject property to remove and modify certain conditions of zoning which affect the subject site adopted as Ordinance No. 2005-29, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

(11:00 A.M. #1) CLOSED SESSION:

("A") CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:

1. FRESNO POLICE OFFICERS ASSOCIATION (FPOA MANAGEMENT UNIT)
2. FRESNO POLICE OFFICERS ASSOCIATION (FPOA NON-SUPERVISORY POLICE)
3. AIRPORT PUBLIC SAFETY OFFICERS

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4. AIRPORT PUBLIC SAFETY SUPERVISORS
5. AMALGAMATED TRANSIT UNION (ATU) LOCAL 1027
6. FRESNO CITY EMPLOYEES' ASSOCIATION (FCEA)
7. INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF MANAGEMENT)
8. INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF NON-MANAGEMENT) LOCAL 753
9. INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS LOCAL 39
10. CITY OF FRESNO PROFESSIONAL EMPLOYEES' ASSOCIATION (CFPEA)
11. CITY OF FRESNO MANAGEMENT EMPLOYEES' ASSOCIATION (CFMEA)
12. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 100 (IBEW)

("C") CONFERENCE WITH LEGAL COUNSEL - DECIDING WHETHER TO INITIATE LITIGATION - CASE NAME: COF V. HENRY YOUNG

("D") CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - CASE NAME: CLAIM OF ALERT-O-LITE

The City Council convened in closed session in Room 2125 at the hour of 11:01 a.m. to consider the above issues and adjourned for lunch thereafter.

LUNCH RECESS - 12:00 Noon - 2:00 P.M.

CLOSED SESSION - Continued:

("B") CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: HOWARD JARVIS TAXPAYERS ASSOCIATION V. COF

The City Council reconvened in closed session at the hour of 2:00 p.m. to consider the above matter and convened in regular open session at 3:16 p.m.

CLOSED SESSION ANNOUNCEMENT:

In the matter of Item "B", City Attorney Montoy noted the 5th District Court of Appeals ruled against the City and affirmed the Trial Court decision and announced Council voted to file both a request for rehearing in the Appellate Court and a subsequent petition for reviewing by the Supreme Court on a vote of 5-2, with Councilmember Perea and President Dages voting "No".

(9:45 A.M.) DIRECTION TO STAFF REGARDING "IN-LIEU" CHARGES - PRESIDENT DAGES

1. DIRECT CITY ATTORNEY TO NOT FILE AN APPEAL IN THE CASE PERTAINING TO HOWARD JARVIS TAXPAYERS ASSOCIATION V. THE CITY OF FRESNO
2. DIRECT STAFF TO REFUND UTILITY IN-LIEU FEES IN AN AMOUNT EQUAL TO ONE YEAR'S PAYMENT THROUGH A

CREDIT ON CUSTOMER'S BI-MONTHLY BILLS

Not considered in open session/discussed in closed session with related closed session item "B".

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 3:18 p.m. having arrived and hearing no objections, President Dages declared the meeting adjourned.

APPROVED on the ____5th____ day of April, 2005.

_____/s/_____
ATTEST:_____/s/_____

Mike Dages, Council President

Yolanda Salazar, Assistant City Clerk